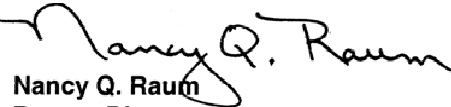


Office of Human Resource Management
Washington, DC 20590

Date: July 3, 2002

SUBJECT: Interim Policy on Probationary Periods

FROM:



Nancy Q. Raum
Deputy Director
Office of Human Resource Management

Attached please find our interim policy on Probationary Periods.

If you have any questions concerning this interim policy, please contact Janet Cammarota on (202) 385-1234.

**U.S. DEPARTMENT OF TRANSPORTATION
TRANSPORTATION SECURITY ADMINISTRATION
HUMAN RESOURCES MANAGEMENT POLICY MANUAL**

DATE: July 29, 2002

HRM Letter 300 – 2

SUBJECT: Interim Policy on Probationary Periods

1. Purpose

This letter sets forth policies and procedures concerning the probationary period that employees entering the Transportation Security Administration must serve. The instruction also covers the probationary period which employees entering a supervisory or managerial position for the first time must serve.

2. Authority

This letter is issued under the authority of the Aviation and Transportation Security Act (the Act).

3. Definitions

Terms have the following meaning in this letter:

- a. TSA: The Transportation Security Administration;
- b. Basic Probationary Period: The probationary period which employees entering the TSA for the first time must serve;
- c. Same line of work: Work that would be classified in the same occupational category;
- d. Supervisory or managerial position: any position which involves at a minimum the supervision of one employee; and
- e. Supervisory or managerial probationary period: the probationary period that employees entering a supervisory or managerial position for the first time must serve.

4. Legal Authority

- a. Screeners.

The Act provides, "Notwithstanding any other provision of law, the Under Secretary of Transportation for Security may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed."

b. Employees Other than Screeners.

The Act provides, "The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 [of Title 49] shall apply to employees of the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the personnel management system with respect to such employees as the Under Secretary considers appropriate, such as adopting aspects of other personnel systems of the Department of Transportation."

c. FAA Personnel Management System.

- (1) Section 40122 of Title 49 authorizes the Administrator to establish a personnel system for Federal Aviation Administration (FAA) employees and excepts the FAA from most provisions of Title 5, United States Code.
- (2) This letter modifies the FAA personnel management system developed by the Federal Aviation Administration and establishes the policies concerning probationary periods of all employees of the TSA.

5. Basic Probationary Period

a. Basic Requirement.

The following individuals must serve a probationary period:

- (1) Persons entering the TSA for the first time on appointments without time limitation;
- (2) Current TSA employees converted from a time-limited appointment to an appointment without time limitation if they have never completed a probationary period at the TSA;
- (3) Persons with previous TSA service who are given an appointment without time limitation if they have never completed a probationary period at the TSA; and
- (4) Screeners, uniformed law enforcement officers, Federal Air Marshals (FAMs) and criminal investigators are required to serve a new probationary period whether or not they have completed a prior Federal probationary period, except that FAMs who enter service for the TSA directly from a FAM position with the FAA and have begun or completed a probationary period as a FAM will be given credit for FAM probationary time served.

b. Exceptions to Basic Requirement.

The following employees are not subject to the requirement to complete a probationary period:

- (1) Persons in positions determined by the Under Secretary to be equivalent to Schedule C or non-career senior executive service because of their policy making, policy advocating, or confidential nature.
- (2) Persons who move from other Federal agencies into a position in the TSA without a break in service of one workday do not have to serve a probationary period if they have previously completed a probationary period in the Federal Government, with the exception of screeners, uniformed law enforcement officers, Federal Air Marshals (FAM) and criminal investigators as set forth in section 5.a.(4).

c. Duration of Probationary Period.

- (1) The usual probationary period is 1 year for full and part time employees. Intermittent employees must complete 2080 hours in pay status, so the probationary period for these employees may extend beyond a calendar year.
- (2) The Under Secretary or his/her designee may authorize probationary periods of up to 3 years for groups of positions when it is determined that a 1 year probationary period is not adequate to evaluate employees. If the length of the probationary period for a position is changed, it applies only to employees entering into the position after the effective date of the change. Employees already in the position will be required to complete only the probationary period in effect when they entered the position.
- (3) Normally the probationary period begins with the effective date of the appointment. However, if the position requires an initial period of training and/or orientation, the 1-year probationary period does not begin until the training and/or orientation are completed and, if applicable, the employee has been certified.
- (4) Service in non-pay status during the probationary period that exceeds 22 workdays extends the period by the excess number of days.

d. Effect of Personnel Actions on the Probationary Period.

- (1) If a TSA employee moves to a different position during the probationary period, he/she does not begin a new probationary period. The previous time is credited toward completion, and it is completed as originally scheduled.
- (2) If a TSA employee moves to a position with a longer probationary period than the usual one-year, he/she must complete the longer period, but the time in the previous position counts toward completion.
- (3) Once a TSA employee completes a probationary period, he/she does not have to complete another one even if the new one is longer than the period that was completed.
- (4) If a TSA employee has a break in service of one workday or more and has not completed a probationary period in the TSA, he/she must complete a new one upon appointment to a position without time limitation in the TSA.
- (5) If an employee who is serving a probationary period is detailed to another position either in or outside the TSA, this has no effect on the probationary period that is completed on the scheduled date.

e. Creditability of Prior Service.

If a TSA employee moves from a time limited appointment to one without time limitation without a break in service of one workday, the time served under the time limited appointment counts toward completion of the probationary period if both positions are in the same line of work.

f. Actions During the Probationary Period.

- (1) The supervisor is expected to monitor closely an employee's performance and conduct during the probationary period. At 3-month intervals, the supervisor must document

whether the employee's conduct and performance are acceptable. Attachment 1 is a suggested form for this purpose.

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(Note: The failure of a supervisor to maintain this documentation is not a bar to terminating an employee whose performance or conduct is deficient.)

- (2) If an employee's conduct or performance are not acceptable at any time, the supervisor should determine whether corrective action such as counseling, additional training, or reassignment to a different position, could resolve the problem.
- (3) If the supervisor determines that a performance or conduct problem cannot be corrected, action must be taken to terminate the employee. Supervisors should not wait until the end of the probationary period to terminate an employee if it is clear earlier that the performance or conduct problem cannot be corrected.

g. Termination of Employee.

- (1) An employee may be terminated any time during an initial period of training or orientation or at any time during the probationary period.
- (2) Whenever a supervisor determines that an employee's performance or conduct is deficient and that the problem cannot be corrected, he/she may terminate the employee. Terminations will be in writing.
- (3) Normally an employee will receive at least one day's notice, but the supervisor may terminate him/her the same day. Supervisors must be careful when setting the effective date of a termination at the end of a probationary period. To avoid the possibility of having the termination occur after the period has actually been completed; the notice terminating an employee on the last day of the probationary period must state that the termination is effective at noon of that day.
- (4) The notice will briefly state the reason for the termination, the effective date, and any grievance or appeal rights. There is no right of reply for the employee.
- (5) Before issuing a termination notice, a supervisor must obtain written concurrence from the next higher-level management official.

h. Termination Based on Conditions Arising Prior to Appointment or Poor Performance.

The TSA will use the same procedures for terminating probationary employees regardless of whether the action is based on conditions that arose before the appointment, or is based on poor performance or misconduct during the probationary period. The procedures that will be used are those described in section g above.

i. Grievance and Appeal Rights.

Probationary employees, other than screeners, may appeal to the Merit Systems Protection Board if they believe that the termination was based on discrimination because of political affiliation or marital status. These are the only issues that may be raised with the Board.

6. Supervisory or Managerial Probationary Period

a. Basic Requirement.

A TSA employee entering a supervisory or managerial position as defined in this letter on other than a time limited appointment or promotion must complete a probationary period. This period is separate from the basic probationary period described in section 5. If both probationary periods are running concurrently, the basic probationary period takes precedence, and there is no need to follow the requirements of this section.

b. Exceptions to Basic Requirement.

The following employees are not subject to the requirement to complete a probationary period:

- (1) Persons in positions determined by the Under Secretary to be equivalent to Schedule C or non-career senior executive service because of their policy making, policy advocating, or confidential nature; and
- (2) An employee who has completed a supervisory or managerial probationary period in the Federal government does not have to complete a supervisory or managerial probationary period in the TSA.

c. Duration of Supervisory and Managerial Probationary Period.

- (1) The probationary period is one year and begins upon entrance into the supervisory or managerial position.
- (2) Service in non-pay status during the probationary period that exceeds 22 workdays extends the period by the excess number of days.

d. Effect of Position Changes

- (1) If an employee serving a supervisory or managerial probationary period is detailed or temporarily promoted out of the position to a non-supervisory or non-managerial position, the probationary period is suspended until he/she returns to the position, at which time it resumes at the same point. If the detail or temporary promotion is to a supervisory or managerial position, the probationary period continues.
- (2) If an employee serving a supervisory or managerial probationary period is reassigned or promoted to another supervisory or managerial position, the probationary period continues.
- (3) If an employee serving a supervisory or managerial probationary period is moved by reassignment, promotion or other permanent position change, to a non-supervisory or non-managerial position for one work day or more or has a break in service for one work day or more, he/she must serve a complete probationary period upon any reappointment to a supervisory or managerial position.

e. Creditability of Prior Service.

If a TSA employee is serving in a supervisory or managerial position on a time limited appointment or promotion and is moved to a permanent supervisory or managerial position without a break in service of 1 work day, service under the time limited appointment or

promotion in the supervisory or managerial position is counted toward completion of the probationary period.

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f. Actions During the Probationary Period.

- (1) The purpose of the probationary period is to give new supervisors and managers a chance to develop the unique skills and abilities that cannot readily be taught or developed in other kinds of positions. The probationary period provides the TSA with an opportunity to assess the new appointee's supervisory or managerial performance and to return an employee to a non-supervisory or non-managerial position without undue formality should circumstances warrant.
- (2) During the probationary period, the employee's supervisor should monitor his/her probationer's supervisory and managerial responsibilities to determine whether he/she is performing them satisfactorily.
- (3) If it is determined that there are deficiencies in the employee's supervisory or managerial performance, and that these cannot be corrected, he/she can be returned to his/her former position or any other position which is not below the grade or pay level of the former position without regard to HRM Letter 752-1, Interim Policy for Addressing Performance and Conduct Problems.

(Note: If the demotion is due to factors other than deficiencies in supervisory or managerial performance, the procedures contained in HRM Letter 752-1 must be followed.)

g. Removal from Supervisory or Managerial Position.

If it is determined that the employee is to be removed from his/her supervisory or managerial position and placed in another position, his/her supervisor must provide a written notice of at least one-day in advance. The notice should contain the reasons for the action, the position to which the employee is being moved, the effective date, and grievance rights. Before issuing the notice, the supervisor must obtain written concurrence from a higher-level manager.



Robert W. Gardner
Associate Under Secretary for
Finance and Administration

Attachments

Filing Instructions: File with HRM 300Letters, Bulletins, and Guidance

Distribution: TSA affiliated HR Offices, Associate Under Secretaries, Office Directors

POC: TSAHR/ Janet Cammarota/(202) 385-1234

Sample Form for Documenting Performance and Conduct During the Basic Probationary Period

Name:

Position:

Commencement date of probationary period:

Completion date of probationary period:

During the first 3 months, performance and conduct are: [] acceptable,
[] deficient, [] marginally acceptable and require some improvement

Comments:

During the second 3 months, performance and conduct are: [] acceptable,
[] deficient, [] marginally acceptable and require some improvement

Comments:

During the third 3 months, performance and conduct are: [] acceptable,
[] deficient, [] marginally acceptable and require some improvement

Comments:

Employee successfully completed probationary period. []

Employee did not successfully complete probationary period. []

Supervisor's Signature and Date

Delegation of Authority

Under the Authority of the Aviation and Transportation Security Act, I delegate the following Authorities.

1. Authority to determine whether employees have successfully completed the basic probationary period as defined in Instruction --- and if conduct or performance are deficient, authority to terminate employees during the probationary period are delegated through managers and supervisors to first line supervisors provided that a higher level management official concurs in any termination
2. Authority to determine whether employees have successfully completed the supervisory or managerial probationary period as defined in Instruction --- and if supervisory or managerial performance is deficient, authority to remove employees from the supervisory or managerial position are delegated through managers and supervisors to first line supervisors provided that a higher level management official concurs in any action.

Nothing in sections 1 and 2 prevents a manager or supervisor in the chain of command from exercising the authority delegated to a subordinate manager or supervisor.

3. The authority to establish a basic probationary period of more than 1 year for groups of positions is delegated to the Director of the Office of Human Resources Management.